

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EIG ENERGY FUND XIV, L.P., EIG
ENERGY FUND XIV-A, L.P., EIG
ENERGY FUND XIV-B, L.P., EIG
ENERGY FUND XIV (CAYMAN), L.P.,
EIG ENERGY FUND XV, L.P., EIG
ENERGY FUND XV-A, L.P., EIG
ENERGY FUND XV-B, L.P., and EIG
ENERGY FUND XV (CAYMAN), L.P.

Plaintiffs,

- against -

KEPPEL OFFSHORE & MARINE
LTD.,

Defendant.

ORDER

18 Civ. 1047 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

This action relates to an alleged bribery and kickback scheme between Defendant Keppel Offshore & Marine Ltd. and entities in the Brazilian government and oil industry. Plaintiffs bring a civil RICO conspiracy claim and an aiding and abetting fraud claim against Defendant. Defendant has moved to dismiss pursuant to Fed. R. Civ. P. 9(b) and 12(b)(6). (Dkt. No. 23)

Defendant's motion to dismiss is denied without prejudice. The Court requires supplemental briefing concerning the following:

- The Complaint alleges wire fraud as a predicate act for purposes of the RICO conspiracy claim. Defendant argues that the "wire fraud allegations are . . . barred by the Private Securities Litigation Reform Act of 1995 ('PSLRA') . . . because the allegations amount to a claim of securities fraud . . ." (Def. Br. (Dkt. No. 26) at 22 (citing MLSMK Inv. Co. v. JP Morgan Chase & Co., 651 F.3d 268, 277 (2d Cir. 2011))) The parties will provide the court with additional briefing as to whether Plaintiff's wire fraud claim amounts to an actionable securities fraud

claim such that the wire fraud claim cannot be used as a predicate act for purposes of the RICO conspiracy claim.

- The Complaint also alleges a Travel Act violation as a predicate act for purposes of the RICO conspiracy claim. The parties will provide the court with additional briefing as to whether this allegation entails an extraterritorial application of the Travel Act.

The parties' supplemental briefs are not to exceed 10 double-spaced pages.

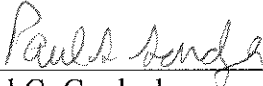
Defendant will file any renewed motion to dismiss – discussing these subjects – by **April 12, 2019**. Plaintiffs will respond by **April 22, 2019**. The Court will then address the arguments raised in the parties' original motion papers, along with the arguments presented in the supplemental briefing.

The parties' motions for oral argument (Dkt. Nos. 27, 28) are denied as moot.

The Clerk of Court is directed to terminate the motions (Dkt. No. 23, 27, 28).

Dated: New York, New York
March 31, 2019

SO ORDERED.



Paul G. Gardephe
United States District Judge